



STATUTORY POLICY
MOUNT ISA CITY COUNCIL
Code of Conduct for Councillors

RESOLUTION NO. **OM08/12/2018** VERSION **V3**

APPLIES TO STATUTORY POLICIES ONLY

This an official copy of the **Code of Conduct for Councillors**, made in accordance with the provisions of the *Local Government Act 2009*.

Statutory Policies comply with a legislative requirement; the **Code of Conduct for Councillors** is approved by the Mount Isa City Council for the operations and procedures of Council.

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 Sharon Ibardolaza
Chief Executive Officer

DOCUMENT VERSION CONTROL				
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VERSION	DATE	RESOLUTION NO.	DETAILS	
V1	25.05.2016	OM32/05/2016	Responsible Officer - Chief Executive Officer	
V2	30.05.2018	OM34/03/2018	Responsible Officer - Chief Executive Officer	
V3	15.11.2018	OM08/12/2018	Responsible Officer - Chief Executive Officer	
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DISTRIBUTION AND DISSEMINATION			
Internal email to all employees	X	Section meetings / Toolbox talks	
Internal email to all Councillors	X	Included in employee inductions	
Staff noticeboards		Uploaded to Council website	X
Internal training to be provided	X	External training to be provided	
Registered in Magiq	X		

1. PURPOSE

The Code of Conduct sets out the principles and standards of behaviour expected of councillors and Mayors when carrying out their roles, responsibilities and obligations as elected representatives for their communities. By adhering to the behaviours set out below, councillors will increase public confidence in Local Government and Council decisions.

2. COMMENCEMENT

This Policy will commence on and from 12 December 2018. It replaces all other policies or arrangements governing Code of Conducts for councillors (whether written or not).

3. APPLICATION

This Policy applies to all Mount Isa City Council ("Council") councillors.

4. BACKGROUND

4.1 Under section 150D of the *Local Government Act 2009* ("the LG Act"), the Minister for Local Government must make a Code of Conduct stating the standards of behaviour for councillors in the performance of their responsibilities as councillors. In addition to this, the Code of Conduct may contain anything the Minister considers necessary for, or incidental to, the standards of behaviour.

4.2 Before assuming public office, councillors must understand and commit to complying with the Local Government principles and obligations of councillors in accordance with section 169 of the LG Act, as well as the standards of behaviour set out in this Code of Conduct. All councillors are required to make a declaration of office under section 169 of the LG Act. As part of that declaration, councillors must declare that they will abide by this Code of Conduct.

5. LOCAL GOVERNMENT PRINCIPLES AND VALUES

5.1 The LG Act is founded on five Local Government principles with which councillors must comply while performing their roles as elected representatives. These principles are listed below:

1. Transparent and effective processes, and decision-making in the public interest;
2. Sustainable development and management of assets and infrastructure, and delivery of effective services;
3. Democratic representation, social inclusion and meaningful community engagement;
4. Good governance of, and by, Local Government; and
5. Ethical and legal behaviour of councillors and Local Government employees.

5.2 This Code of Conduct provides a set of values that describe the types of conduct councillors should demonstrate under each principle. These values are listed below:

1. In making decisions in the public interest, councillors will:
 - make decisions in open council meetings;
 - properly inform relevant personnel of all relevant information;
 - make decisions in accordance with law and policy; and
 - commit to exercising proper diligence, care and attention.
2. To ensure the effective and economical delivery of services, councillors will:
 - manage Council resources effectively, efficiently and economically; and
 - foster a culture of excellence in service delivery.
3. In representing and meaningfully engaging with the community, councillors will:
 - show respect to all persons;
 - clearly and accurately explain Council's decisions; and
 - accept and value differences of opinion.

4. In exercising good governance, councillors are committed to:
 - the development of open and transparent processes and procedures; and
 - keeping clear, concise and accessible records of decisions.
5. To meet the community's expectations for high level leadership, councillors will:
 - be committed to the highest ethical standards; and
 - uphold the system of Local Government and relevant laws applicable.

5.3 This Code of Conduct also sets out standards of behaviour aimed at helping councillors understand how the principles and values are put into practice while performing their official duties as elected representatives.

Each standard of behaviour is not intended to cover every possible scenario. However, they provide general guidance about the manner in which councillors are expected to conduct themselves.

It is important to note that the principles, values and standards set out in the Code of Conduct are of equal importance.

6. ETHICS PRINCIPLES

- 6.1 The ethics principles prescribed in the *Public Sector Ethics Act 1994* s4(2) are fundamental to good public administration and include;
- a) integrity and impartiality;
 - b) promoting the public good;
 - c) commitment to the system of government; and
 - d) accountability and transparency.

7. CONFIDENTIALITY

- 7.1 Councillors are in a position of trust and the legislation is clear that this trust must not be abused by misusing information obtained as councillors.
- 7.2 Councillors must ensure that information which is confidential to Council remains confidential. Any person who is, or has been, a councillor must not use information acquired as a councillor to directly or indirectly gain financial advantage for themselves or anyone else, or to harm the Council.
- 7.3 Breach of s171 of the LG Act provides a maximum penalty of 100 penalty units or 2 years imprisonment.

8. STANDARDS OF BEHAVIOUR

- 8.1 This Code of Conduct sets out the standards of behaviour applying to all councillors in Queensland. The behavioural standards relate to, and are consistent with, the Local Government principles and their associated values.

The standards of behaviour are summarised as the three R's, being:

- a) RESPONSIBILITIES
- b) RESPECT
- c) REPUTATION

Each standard of behaviour includes, but is not limited to, several examples to guide councillors in complying with the Code of Conduct when carrying out their role as elected officials. Councillors are to understand and comply with the following standards of behaviour as set out in the Code of Conduct listed below.

- 8.2 Carry out RESPONSIBILITIES conscientiously and in the best interests of the Council and the community.

For example, councillors will, at a minimum:

- a) Attend and participate meaningfully in all Council meetings, briefings, relevant workshops and training opportunities to assist councillors in fulfilling their roles other than in exceptional circumstances and/or where prior leave is given;
- b) Respect and comply with all policies, procedures and resolutions of Council;
- c) Use only official Council electronic communication accounts (e.g. email accounts) when conducting Council business;
- d) Report any suspected wrongdoing to the appropriate entity in a timely manner;
- e) Ensure that their behaviour or capacity to perform their responsibilities as a councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/non-prescribed and/or restricted substances);
- f) Cooperate with any investigation being undertaken by the Local Government or other entity;

8.3 Treat people in a reasonable, just, RESPECTFUL and non-discriminatory way.

For example, councillors will, at a minimum:

- a) Show respect for fellow councillors, Council employees and members of the public;
- b) Not bully, harass, intimidate or act in a way that the public would reasonably perceive a councillor's behaviour to be derogatory towards other councillors, Council employees and members of the public; and
- c) Be respectful of other people's rights, views and opinions.

8.4 Ensure conduct does not reflect adversely on the REPUTATION of Council.

For example, councillors will, at a minimum:

- a) When expressing an opinion dissenting with the majority decision of Council, respect the democratic process by acknowledging that the Council decision represents the majority view of the Council;
- b) When making public comment, clearly state whether they are speaking on behalf of Council or expressing their personal views;
- c) Avoid making unnecessary or irrelevant comments or accusations about councillors or Council employees in order to undermine them or their position; and
- d) Ensure behaviour and presentation is appropriate to maintain the dignity of the office of the councillor.

9. BREACH OF THIS CODE OF CONDUCT

9.1 Failure to comply with the standards of behaviour in this Code of Conduct, or other conduct prescribed in this Code of Conduct may give rise to a complaint against a councillor's conduct and subsequent disciplinary action under the LG Act.

9.2 A complaint about the conduct of a councillor must be submitted to the Independent Assessor who will assess the complaint and determine the category of the allegation. In order of most to least serious, the categories of complaint are corrupt conduct, misconduct, inappropriate conduct and then unsuitable meeting conduct.

10. UNSUITABLE MEETING CONDUCT

10.1 Under section 150H of the LG Act, any conduct by a councillor that is contrary to the standards of behaviour in the Code of Conduct that occurs within a meeting of Council (including standing committee meetings), is dealt with as unsuitable meeting conduct.

10.2 Unsuitable meeting conduct by a councillor is dealt by the chairperson of the meeting. It is important that the chairperson deal with matters of unsuitable meeting conduct locally, and as efficiently and effectively as possible so that Council can continue with their business of making effective decisions in the public interest.

10.3 Examples of unsuitable meeting conduct by a councillor may include:

- a) A councillor behaves in a Council meeting, in a way that intimidates, bullies or harasses a member of the community, another councillor or Council employee;
- b) A councillor continually interrupts or disrupts a speaker at a Council meeting; and
- c) A councillor behaves in an offensive or disorderly way in a Council meeting.

Note: Chairpersons of meetings are carrying out a statutory responsibility under the LG Act to manage and lead the meeting. As such, where a chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the chairperson of the meeting and may be dealt with as misconduct (see below).

11. INAPPROPRIATE CONDUCT

11.1 Under section 150K of the LG Act, any conduct by a councillor that is contrary to the standards of behaviour in the Code of Conduct or a policy, procedure or resolution of a Council, and is not unsuitable meeting conduct, misconduct or corrupt conduct (i.e. occurs outside of a meeting of Council) is dealt with as inappropriate conduct.

11.2 The conduct of a councillor is also inappropriate conduct if the conduct contravenes an order by the chairperson of a meeting of Council for the councillor to leave the meeting or is conduct at Council meetings that leads to orders for the councillor's unsuitable meeting conduct being made on three occasions within a period of one year (from first occasion).

11.3 The Independent Assessor is responsible for assessing allegations of suspected inappropriate conduct. If the Independent Assessor chooses to refer the matter to the Council to deal with, the Council must deal with the matter as quickly and effectively as possible.

11.4 Examples of inappropriate conduct of a councillor may include:

- a) A councillor publicly makes derogatory comments about staff;
- b) A councillor purports to speak to the media on behalf of Council when not properly authorised under a Council policy;
- c) A councillor fails to comply with an order made by the chairperson of a meeting to leave and stay away from the place at which the meeting is being held; and
- d) A councillor has been reprimanded 3 times in 12 months (from first occasion) for interrupting other councillors during meetings.

12. MISCONDUCT

12.1 Councillors are required to comply with all laws that apply to Local Governments. This includes refraining from engaging in misconduct.

12.2 The Independent Assessor is responsible for assessing and investigating instances of suspected misconduct. The Independent Assessor may then refer the matter to the Councillor Conduct Tribunal to be heard and determined.

The conduct of a Councillor is misconduct if the conduct:

- a) adversely affects, directly or indirectly, the honest and impartial performance of the councillor's functions or exercise of powers,
- b) is, or involves;
 - i. a breach of trust placed in the councillor;
 - ii. misuse of information or material acquired by the councillor, whether the misuse is for the benefit of the councillor or for the benefit or to the detriment of another person;
 - iii. a councillor giving a direction to any Council employee (other than the Mayor giving direction to the Chief Executive Officer and senior executive employees);
 - iv. a release of confidential information outside of the Council;

- v. failure by a councillor to report a suspected material personal interest, conflict of interest or perceived conflict of interest of another councillor, or
- c) is a failure by the councillor to comply with:
 - i. an order made by the Council or Tribunal;
 - ii. any acceptable request guidelines of the Council made under section 170A of the LG Act;
 - iii. the reimbursement of expenses policy of the Council.

The conduct of a councillor is also misconduct if the conduct leads to the councillor being disciplined for inappropriate conduct on three occasions within a period of one year (from first occasion) or is conduct that is identified in an order of Council that will be dealt with as misconduct if the councillor engages in the conduct again.

12.3 Examples of misconduct of a councillor may include:

- a) a councillor knowingly providing false or misleading information during a meeting of the Council in order to affect a decision;
- b) a Mayor fails to carry out the performance evaluation of the Chief Executive Officer in the manner determined by Council;
- c) a councillor releases private information about a member of the community acquired as a councillor;
- d) a councillor directs a Council employee (other than the Mayor directing the Chief Executive Officer or other senior executive employees) to perform a duty;
- e) a councillor provides confidential information to the media that came from a closed meeting of Council;
- f) a councillor has a reasonable suspicion that another councillor has a material personal interest or conflict of interest but did not disclose it to the presiding officer when the other councillor failed to disclose it;
- g) a councillor fails to pay a fine ordered by the Tribunal;
- h) a councillor sought assistance or advice from an officer that is not in accordance with Council's acceptable request guidelines; and
- i) a councillor uses a Council vehicle for private use that is not authorised by Council's expenses policy.

13. CORRUPT CONDUCT

13.1 Corrupt conduct is defined by, and dealt with, under the *Crime and Corruption Act 2001* and must be referred to the Crime and Corruption Commission. For a councillor, corrupt conduct involves behaviour that;

- a) adversely affects or could adversely affect the performance of the councillors responsibilities; and
- b) involves the performance of the councillors responsibilities in a way that;
 - i. is not honest or impartial; or
 - ii. involves a breach of the trust placed in the councillor; or
 - iii. involves the misuse of information acquired by the councillor; and
- c) is engaged in for the purpose of providing a benefit or a detriment to a person; and
- d) if proven would be a criminal offence.

13.2 Examples of corrupt conduct of a councillor may include:

- a) a councillor fails to declare a material personal interest in a Council meeting;

- b) a councillor intentionally fails to update a register of interests in order to hide an interest that could gain a benefit or a loss to the person;
- c) a councillor engages in fraud against the Council;
- d) a councillor uses information acquired by a councillor to gain a financial benefit for the councillor or someone else;
- e) a councillor directs a Local Government employee to gain a benefit or cause a detriment to the councillor or another person; and
- f) a councillor engages in the LG Act of stealing against the Local Government.

14. VARIATIONS

Council reserves the right to vary, replace or terminate this policy from time to time.

15. COMMUNICATION AND DISTRIBUTION

15.1 Council will make available to the public, the Code of Conduct for Councillors on our website at www.mountisa.qld.gov.au.

ASSOCIATED LEGISLATION AND POLICIES

- *Local Government Act 2009*
- *Crime and Corruption Act 2001*
- *Public Sector Ethics Act 1994*
- Councillor Investigation Policy
- Standing Orders Policy
- Model Meeting Procedures
- Councillor Acceptable Request Guidelines